

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: W.R. GRACE & CO., <i>et al.</i>, Debtors.	§ § § § § §	Chapter 11 Jointly Administered Case No. 01-01139 (JKF)
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**FEE AUDITOR'S FINAL REPORT REGARDING QUARTERLY INTERIM
FEE APPLICATION OF ORRICK, HERRINGTON & SUTCLIFFE LLP FOR
FOR THE PERIOD OF OCTOBER 1, 2010 THROUGH DECEMBER 31, 2010**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Quarterly Interim Fee Application of Orrick, Herrington & Sutcliffe LLP for the Period of October 1, 2010 through December 31, 2010 (the "Application").

BACKGROUND

1. Orrick, Herrington & Sutcliffe LLP ("Orrick") was retained as bankruptcy counsel to David T. Austern, Future Claimants' Representative. In the Application, Orrick seeks approval of fees totaling \$303,224.75 and expenses totaling \$3,984.67 for its services from October 1, 2010 through December 31, 2010 (the "Application Period" or the "Thirty-Ninth Interim Period").

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2011, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C.

§330, Issued January 30, 1996 (the "U.S. Trustee Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. Based on our review, we served an initial report on Orrick and received a response from Orrick, portions of which response are quoted herein.

DISCUSSION

3. We noted the following professional who billed only a *de minimis* amount of time on the case:

11/01/10	S. Cruzado	Review recently filed documents.	1.50	360.00
11/16/10	S. Cruzado	Review recently filed documents.	1.50	360.00
11/30/10	S. Cruzado	Review recently filed documents.	1.50	360.00
			4.50	1,080.00

We scrutinize more closely the work of professionals who appear to have only fleeting involvement with the case.¹ We asked Orrick to explain how this work benefited the estate, and Orrick responded:

The time entries identified in the Report billed by Stephen Cruzado in the total amount of 4.50 hours and \$1,080.00 in fees were mis-billed. Our total fees requested...should be reduced by \$1,080.00.

¹As stated by the court in *In re Jefsaba, Inc.*, 172 B.R. 786, 800 n. 9 (Bankr.E.D.Pa. 1994):

Requests to compensate for services of professionals whose time is *de minimis* raises a red flag in our review. Other than professionals with a special expertise, the fleeting involvement of bankruptcy attorneys in a case often results from a staffing inefficiency. Given the itinerant attorney's lack of knowledge of the case, the attorney's time may be less productive than attorneys regularly assigned to the case. When this occurs, we would expect an appropriate deduction be made to the time charged.

We appreciate Orrick's response and recommend a reduction of \$1,080.00 in fees.

4. We noted the following meal charges for which more information was needed²:

12/7/2010	BUSML	Other Business Meals	\$150.40	Vendor: Certe; Invoice #5195; Date: 12/7/2010 - NY-NY/id#127420/mk
12/8/2010	NYCAF	NY Cafeteria	\$43.55	
12/13/2010	TRVML	Out of Town Business Meal	\$66.00	Vendor: Wyron, Richard H.; Invoice #: 121310; Date: 12/21/2010 - dc/dc

In response to our request, Orrick provided the information in the attached Response Exhibit A, and stated as follows: "In order to comply with the fee auditor's guidelines regarding meal charges, we will reduce our requested expenses by \$31.00, as set out in Exhibit A." We appreciate Orrick's response, concur with same, and thus recommend a reduction of \$31.00 in expenses.

5. We noted the following travel expenses for which more information was needed:

10/13/2010	LTRV	Travel Expense, Local	\$264.00	Vendor: Felder, Debra; Invoice #: 101510; Date: 10/25/2010 - dc/dd/#12
12/13/2010	LTRV	Travel Expense, Local	\$88.00	Vendor: Wyron, Richard H.; Invoice #: 121310; Date: 12/21/2010 - dc/dc
12/13/2010	LTRV	Travel Expense, Local	\$190.00	Vendor: Frankel, Roger; Invoice #: 122710A; Date: 1/3/2011 - dc/dd/#12
12/6/2010	AIR	Travel Expense, Air Fare	\$656.40	Vendor: Frankel, Roger; Invoice #: 122710; Date: 1/3/2011 - dc/dd/#127

In response to our request, Orrick provided the information on the attached Response Exhibit B. We accept Orrick's response and have no objection to these expenses.


²For lunch meals, we utilize per person caps of \$50 in New York and \$35 in most other locales, including Wilmington, Delaware.

CONCLUSION

6. Thus, we recommend approval of \$302,144.75 in fees (\$303,224.75 minus \$1,080.00) and \$3,953.67 in expenses (\$3,984.67 minus \$31.00) for Orrick's services for the Application Period.

Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.

By: 
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FEE AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 3rd day of May, 2011.


Warren H. Smith

SERVICE LIST

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